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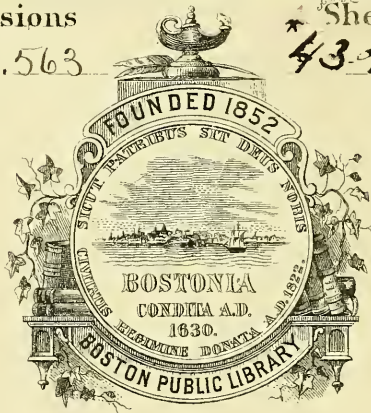
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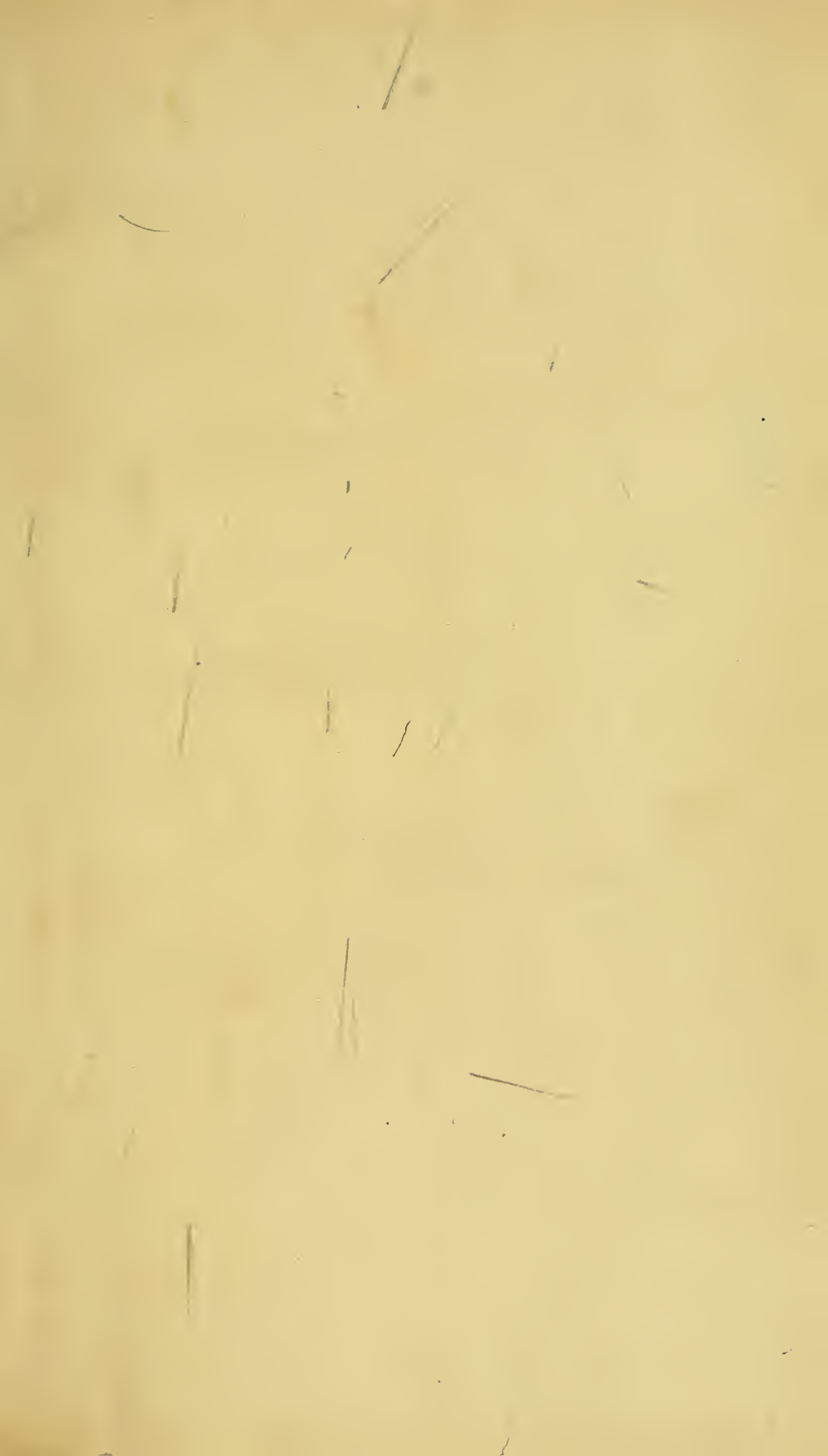
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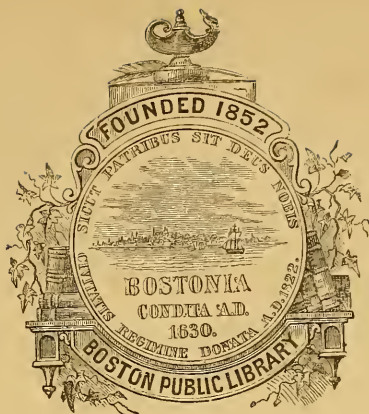






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PAMPHLETS.

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Military
biography.

Ever Institute,
Salem, Mass., Oct. 6/87.

Undoubtedly D. A. White was
the author of the Pamphlet referred to.
See our Historical Collections, Vol. IV,
page 271.

Very truly yours,
Wm. W. Heathland,
Pres. E. S. S. P.

4422.53
Duplicate not catalogued

A STATEMENT OF FACTS,

Relating to the Claim of Major MOSES WHITE upon the United States, as Executor of the late General MOSES HAZEN, including some consideration of its merits, and an exposition of the report of a committee on this subject, made 28th February, 1820.

—◆—
d. 1803

THIS claim consists of two distinct parts, being in fact two claims, the one founded on a Resolution of Congress of Jan. 22, 1776, and the other on an Order of Congress of April 25, 1781. Both will be more clearly understood, if we consider them separately, with the facts and circumstances connected with each.

First, as to the Resolution of Jan. 22, 1776, which is as follows—viz:

“RESOLVED, That the United Colonies will indemnify Colonel Moses Hazen for any loss of half-pay he may sustain in consequence of his entering into their service.”

This resolution was passed under the following circumstances. The late Gen. Hazen, who was a native of Massachusetts, early in life, entered into the provincial service, in the war of 1756, and distinguished himself by his bravery under Gen. Wolfe, particularly in the battle on the plains of Abraham, in which he was severely wounded. Having purchased a Lieutenantancy in the British army, he continued in the service till the peace of 1763; when he retired upon half-pay for life, married and settled in Canada; and, at the period of the revolutionary war, had gained reputation, wealth, and influence there. When Congress had determined upon sending an army into Canada, they were solicitous to engage influential men in that country, to take an active part in their service. Hazen was well known to be friendly to their cause, and not surpassed by any one in military experience and influence with the Canadians. Congress, therefore, having resolved to take into their pay one thousand Canadians, in addition to Col. Livingston's regiment, applied to Hazen to take the command of them. Hazen objected to accepting such a command, for two reasons; first, that if the expedition should fail, his real estate, being all in Canada, would probably be confiscated; and secondly, that his annuity of half-pay for life upon the British establishment, which had cost him a large sum of money, and which he could not afford to lose, would be sacrificed.

As to the first objection, he was told by a committee of Congress, who conferred with him on the subject, that it was their determination to send such a force into that country, as would not leave a doubt of their success; and, as to the second objection, he was assured that Congress would make good to him any loss he might sustain. Upon these assurances, Hazen waved his objections; and Congress appointed him Colonel of

the second Canadian regiment, and, at the same time, passed the Resolution of Jan. 22, 1776, engaging to indemnify him for the loss of his half-pay.

It was upon the terms stipulated in this resolution, that Hazen accepted the appointment, proceeded to raise the regiment, and faithfully served the United States, during the whole of the revolutionary war. In consequence of his so doing, besides his loss of property in Canada, and the sacrifice of his advantageous prospects there, his name was struck off the British half pay establishment, from Dec. 25, 1781, as appears by a certificate from the Pay Office in London, and he lost his annuity of half-pay from that time to his death, Feb. 4, 1803.

The obligation of the United States to indemnify Gen. Hazen for the loss of his annuity, pursuant to the Resolution of Jan. 22, 1776, has never been called in question by the government, or by the officers of the Treasury; and yet, without any fault on his part, the claim for indemnification has never been satisfied, but still remains in all its original force and extent.

This will clearly appear from the facts and proceedings that have taken place in relation to this claim.

At the close of the revolutionary war, Gen. Hazen exhibited this with other claims to the commissioner of army accounts; and this was among those items of his account, which, by a resolution of Congress, April 26, 1785, were removed from the Commissioner, and referred to the Board of Treasury to examine and report thereon. The Board of Treasury, however, made no report upon the subject; and these unsettled accounts of Gen. Hazen remained in the same unsettled state, till they came into the Treasury Department under the present constitution.

In the mean time, Gen. Hazen, though he had received a paralytic shock, which rendered him unable to attend in person at the seat of government, did not fail, by memorials and otherwise, to make earnest and repeated application for a settlement. But he could obtain only acknowledgments of the validity of his claim, and assurances that it would sometime be adjusted and paid.

Gen. Knox, the Secretary of War, wrote to Gen. Hazen on the subject of this claim, Dec. 4, 1789, and after speaking of the proper certificate from the Pay Office in London to establish it, and stating that the officers of the Treasury could not pay it, till provision should be made for the purpose by Congress, he adds, "as this claim is good, it is probable that money might be obtained of private persons thereon, &c." That is, though payment could not then be had at the Treasury, yet such was the undoubted character of this claim, that Gen. Hazen might, upon the security of it, obtain money of individuals for the relief of his immediate necessities.

Mr. Hamilton, Secretary of the Treasury, Aug. 9, 1790, in his report upon Gen. Hazen's account current, states that this claim was not included therein, but still remained unsettled.

Mr. Wolcott, the successor of Hamilton, in a letter, July 15, 1795, states that this claim was then recognised at the Treasury Department, as being founded in principle, and waited only provision to be made by Congress to be adjusted.

Mr. Duval, comptroller of the Treasury, under date of Feb. 14, 1804, states that "to fulfil the engagement, on the part of the United States,

it is necessary that a law should pass, authorising the accounting officers to adjust the account, fixing the half-pay of a Lieutenant in the British service, and directing the time of the commencement and termination of that pay."

Congress, however, appears to have entertained an opinion, that the Treasury Department was competent to the settlement of this claim, without any special law for the purpose; as was expressed by the committee of claims in Feb. 1803, in their report on Gen. Hazen's memorial, in which they say, "no legislative aid seems necessary to enable the Treasury Department to do ample justice to the memorialist." But the officers of the Treasury always decided otherwise; and to this difference of opinion, as to the powers of the Treasury Department in respect to this claim, may be chiefly imputed the long and unreasonable delay of payment. While every officer of the government, who had occasion to speak of this claim, acknowledged it to be in full force against the United States, no provision was ever made for the settlement of it.

Such is a brief history of this claim to the time of Gen. Hazen's death. From the facts that have been recited, it is manifest, that during his life, the claim was considered to be of undoubted validity; that it was in no part satisfied; and that there was no neglect on the part of Gen. Hazen, in applying to the government for payment. Indeed, helpless as he was, from his paralytic disorder, and imprisoned for debt, his necessities compelled him to urge a settlement by all the means in his power.

Moses White, the present memorialist, and Charlotte Hazen, being appointed by Gen. Hazen executor and executrix of his will, (though Mrs. Hazen afterwards declined accepting the trust) lost no time, upon his death, in jointly renewing the application to government in behalf of this claim, and petitioning that provision might be made for its settlement. Their petition, which was presented in 1804, was referred to the committee of claims, being the same committee, who the preceding year had considered and reported on Gen. Hazen's memorial, but who now came to a result in conformity to the views of the Treasury Department. After a thorough investigation of the merits of the claim, with all the vouchers and documents relating to it, they were satisfied that no measures had at any time been adopted by the government, to carry into effect the Resolution of Jan. 22, 1776; that Gen. Hazen, after the termination of the war, had repeatedly claimed the allowance of his British half-pay, and that his claim was recognised at the Treasury Department, as founded in principle, waiting only for the necessary provision to be made for its settlement. The committee were of opinion, therefore, that the prayer of the petition was reasonable, and ought to be granted; and accordingly, in February, 1804, they reported a bill to authorize "the proper accounting officers to liquidate and settle the claim of Moses White and Charlotte Hazen, legal representatives of the late Gen. Moses Hazen, for the loss of his British half-pay, from 25th Dec. 1781, to the 4th Feb. 1803, together with the legal interest after the same became due." This bill passed the House, and was sent to the Senate, but at so late an hour of the session, that no opportunity was had for calling it up for consideration in that body.

The following year, 1805, a similar petition was presented to the House, and the committee of claims, reported upon it in the same manner as before; but the bill, now reported, in passing the House, was a-

mended, at the motion of a member, who wished that the whole avails of the claim might be appropriated to the use of Gen. Hazen's widow. This amendment was disagreed to by the Senate, on the ground that it would divert the payment of the claim from its proper course, and be no legal satisfaction of it by the United States. And so the bill was lost.

In 1806, the petition for a settlement of this claim was again presented to Congress, and referred as formerly, but the committee made no report, on account, as the memorialist was informed, of the low state of the Treasury. This induced him to suspend a further prosecution of the claim, during the embarrassed state of the Treasury, and till after the late war.

In 1819, the memorialist, understanding that the Treasury was in a prosperous condition, renewed his application to Congress, and being unable, both from want of means and of health, to attend to it in person, he relied upon the committee to examine the vouchers in support of the claim, which had been retained on the files of the committee, since the investigation in 1804. But the committee, overlooking or not finding these vouchers, proceeded without them, and made a report in February, 1820, adverse to the claim. This report was equally unexpected and extraordinary, being principally made up of resolutions of Congress, having no relation to this claim, and of presumptions and inferences from them, wholly unfounded.

The memorialist, having as far as possible collected and replaced his vouchers, again brought his claim before Congress, at their session commencing in Dec. 1825. In the Senate, at an early period of the session, his memorial was referred to the committee of claims, who were fully satisfied of the justice of the claim, and, in March 1826, reported a bill providing for the payment of it; which, upon being discussed and considered, passed the Senate, and was sent to the House. But, when the bill came into the hands of the committee of the House, it was so near the close of the session, and there was such a mass of business before the committee, that they could not have time to examine the vouchers and documents accompanying the bill; and thus were led, in their report, made May 4, 1826, to adopt the adverse report of the committee of 1820, not even observing that only one part of the claim, referred to them, had been considered in that report, and being probably unaware of the circumstances, now stated, under which that report had been made. In this way only, can we account for the committee's reviving a report, originally made without the petitioner's vouchers, and consisting of presumptions and inferences, directly contradicted by the evidence of facts, accompanying the bill from the Senate, and then in their possession.

The report of the committee of 1820 contains the first, and only objections, that were ever made against the allowance of this claim; and as the report derives importance from its having been adopted by the committee of 1826, the objections, it contains, deserve particular consideration. If these objections are found to have no weight, there will remain nothing to oppose the clear and abundant testimony of facts in support of this claim.

The committee of 1820 begin their report by reciting the substance of the petition referred to them; and, after stating the question to be, "has Congress heretofore indemnified Moses Hazen, or his legal representatives, for the loss of said half pay;" they proceed to cite from the Journals of Congress various resolutions respecting Gen. Hazen, without any apparent enquiry, as to their pertinency to the case in question. The

east degree of examination might have satisfied the committee, that the Order of Congress, of April 25, 1781, upon which they mainly rely, and to which they repeatedly allude, had no relation whatever to Gen. Hazen's claim to indemnity, but entirely respected his disbursements in Canada. Yet, from this Order, and other resolutions of Congress, alike irrelevant, the committee *presume* and *infer*, that the United States have fully indemnified Gen. Hazen, pursuant to the Resolution of Jan. 22, 1776!

The first resolution, cited by the committee of 1820, bears date Oct. 23, 1776, and directs "that \$966 be paid to Col. Hazen for articles appropriated to the use of the army under Gen. Montgomery." Of this the committee barely remark, that it is "incidentally mentioned to manifest the justice of the United States to Col. Hazen;" and they might have added, that it equally manifests the readiness of Col. Hazen to advance his property in Canada for the use of the United States, whenever the necessities of their army there required it.

The committee next introduce the aforesaid Order of Congress of April 25, 1781, upon which they lay so great stress, whereby it was ordered, "that the Board of Treasury place to the credit of Col. Moses Hazen, the sum of \$13,386 2-90 specie, being the principal and interest of the money due to him, to the first of May, 1781, and that the same bear an interest at the rate of six per cent. per annum, from the first of May next aforesaid, until paid." Upon this the committee observe, "and the whole of this grant of money, both principal and interest, has been paid." But, in the first place, so far from being a "grant of money," this Order was an *obligation* to pay a preexisting *debt*; a specie debt, indeed, for specie advanced for the United States in Canada, where the continental paper money did not pass; in the next place, so far is this from having been *wholly* paid, that the principal was never paid in *specie*, as promised, and the interest still remains *unpaid*; constituting, in fact, the claim founded upon this very Order of Congress, presently to be considered. Even had this Order been a "grant of money," and had the payment been made as promised, yet it would be difficult to perceive, what possible relation it could have to a claim, which had no existence, when the Order was passed, and the existence of which could not have been foreseen, depending, as it did, upon the event of Gen. Hazen's being struck off the British half pay establishment, which took place eight months afterwards, Dec. 25, 1781.

The committee of 1820 proceed to notice three several resolutions, one of June 29, 1781, "appointing Col. Hazen a Brigadier in the army of the United States by brevet;" another, of April 26, 1785, referring "the claims of Moses Hazen, Esq. with the objections of the commissioner of army accounts, to the Board of Treasury, to examine the same and report thereon;" and a third, of June 7, 1785, referring "the claims of Moses Hazen, Esq. to pay and half pay, above that of a colonel in the line, to the Secretary of War, to report;" and, "his claims to the immediate payment of money, to the Board of Treasury to report." Upon citing these resolutions, the committee add, "and it is *presumed*, that all claims, of every description, of the said Moses Hazen, Esq. against the United States, were finally liquidated and settled in pursuance of said resolutions of Congress, &c." The committee further say, in remarking upon Gen. Hazen's being struck off the half-pay British establishment, Dec. 25, 1781, "and it may be fairly *inferred*, that Moses Hazen had

been previously indemnified for the loss of his said half pay, or that he in the settlement of his claims was allowed therefor—if to allow him any thing therefor, was judged proper at that time.” Yet the committee do not attempt to show that any settlement took place. Besides, they seem to forget that this half-pay was an annuity, and that the loss of it could not have been wholly adjusted at any given time, without the faculty of foreknowing the time of Gen. Hazen’s death. The fact is, as before stated, the Board of Treasury did not report upon Gen. Hazen’s accounts, referred to them by the resolution of April 26, 1785; no settlement took place in consequence of it; nor did Gen. Hazen derive any benefit whatever from that resolution; and it proves nothing more, in this case, than his urgent though ineffectual application for a settlement. The same also may be said of the resolution cited by the committee, respecting Gen. Hazen’s “claims to the immediate payment of money,” passed June 7, 1785, upon his petition for the payment of his debt against the United States, presented to Congress at the time he was sued upon the private obligations he had entered into for the purpose of making a part of those disbursements in Canada, which constituted this debt. He obtained nothing by that petition, but the resolution which Congress passed upon it. No report was made, nor money received in consequence of the resolution.

Thus we see, that the resolutions of Congress, from which the committee of 1820, so confidently *presume* and *infer*, that all Gen. Hazen’s claims against the United States, of every description, were finally liquidated and settled, are no other than this Order of April 25, 1781, engaging to pay him in specie, with interest, the amount due for his specie disbursements in Canada, and the fruitless resolutions, which Congress passed upon his petitions for a settlement and payment of money, from which he received no benefit whatever.

As to the claim for loss of half-pay, it is certain from the facts before stated, taken from the vouchers and documents accompanying the memorial, that it never was settled, nor included in any settlement of other matters; and the *presumptions* and *inferences*, imagined to the contrary by the committee of 1820, are wholly disproved by those facts. The letter of Gen. Knox, the Secretary of War, to whom reference was made in a part of the resolution of June 7, 1785, and who was well acquainted with the situation of Gen. Hazen’s accounts, proves Dec. 4, 1789, the date of the letter, that nothing had been done by the government towards a settlement of this claim. The same is proved to have been the fact, by Secretary Hamilton’s report, Aug. 9, 1790; and by Secretary Wolcott’s letter, July 15, 1795; and by Comptroller Duval’s certificate, Feb. 14, 1804; all among the documents accompanying the memorial, except that the original letter of Mr. Wolcott has not been found since it went into the hands of the committee of 1804, but the substance of it is recited in the report of that committee.

It seems to be impossible to avoid a conclusion from the facts now stated, that this claim still exists in all its original force; but the committee of 1820 take no notice of these facts, in their report, and it does not appear that they had any knowledge of them.

In adverting to the report of the committee of 1804, the committee of 1820 say, that “that committee do not appear to have taken into consideration the various resolutions of Congress, providing for the promo-

tion of the said Moses Hazen to several grades of high office in the American army;" nor "the difference existing between the rank and emoluments of a Colonel and of a Brigadier General in the army of the United States, and that of a Lieutenant on the British half-pay establishment." The committee of 1804 had before them all the documents and vouchers, that have now been referred to, and had also examined the subject of this claim the preceding year, and must have taken into view every thing which appeared to be material or pertinent. They doubtless could not discern, that the various resolutions of Congress, from which the committee of 1820 draw their *presumptions* and *inferences*, had any relation to the subject.

But it is worthy of particular notice, that the committee of 1820, in making these remarks upon the report of 1804, appear to be taking a new view of the case, and attempting to show, that Gen. Hazen was indemnified for the loss of his annuity of half-pay, not in being paid, as they had just *presumed* and *inferred*, but in being promoted to higher grades of office in the American army, than that of a Lieutenant on the British half-pay establishment. That is, if we understand the committee, the contract, which Congress entered into with Hazen, to induce him to accept the office of Colonel in the army of the United States, was fulfilled, on their part, by the mere act of appointing him to that office! But, it is stated, he was also "appointed a Brigadier in the army of the United States, by brevet." True, but to this he was equally entitled, without the Resolution of Jan 22, 1776, in common with other officers of his grade in the army. Besides, this promotion brought with it no additional pay or emolument to Gen. Hazen. On the contrary, it subjected him to increased expenses to support the respectability of the office. In the revolutionary war, brevet appointments were made on account of distinguished merit, and not from pecuniary considerations. Some time previous to this promotion, Gen. Hazen was sent upon the enemy's lines near Kings-bridge, New-York, with a detachment of troops to relieve a field officer stationed there, whom he found in a perilous situation, nearly surrounded by the enemy and ready to fall into their hands, and whom he rescued and brought off safe, with all his men. For this service, he received the thanks of Washington in general orders, and was afterwards, upon a report of the Board of War, brevetted by Congress. To consider this complimentary appointment, as a legal *set-off* against Gen. Hazen's pecuniary claim, is truly an original idea, which seems never to have occurred except in the making of this report of 1820. It must have been far from the mind of Gen. Knox, when he advised to a loan of money on the security of this claim.

In comparing the pay of a Brigadier in the American army with that of a Lieutenant on the British half-pay establishment, the committee would seem to say, that Hazen received the emoluments of a Brigadier General in the revolutionary war. But the fact is otherwise; and his general account current, in the Treasury Office, a copy of which accompanies the memorial, would have proved to the committee, if they had consulted it, that General Hazen was credited only for the pay and emoluments of a Colonel to the close of the war. But whatever might have been paid to him for his services during the war, and whatever honors conferred upon him, he was entitled to receive them, equally with other officers of similar grade in the army, independently of the Resolution

of Jan. 22, 1776. That resolution was a distinct and additional contract, occasioned by Hazen's peculiar situation, in respect to his taking an active part in our revolution. Congress knew, that in consequence of his entering in their service, he would probably lose his British annuity of half-pay; and they must have intended, by a solemn engagement to indemnify him for such a loss, to give him as full assurance of receiving the indemnity from the United States, in case of loss, as he then had of receiving the annuity from the British government, should he decline the offers of Congress. The Resolution of Jan. 22, 1776, must have this construction, or it was wholly nugatory, and worse than nugatory, calculated to draw Gen. Hazen into the service of the United States, by a pledge of the public faith, which Congress, at the time, had no intention of redeeming.

The committee of 1820, in speaking of Gen. Hazen's receiving the "half-pay of a British officer," until he was struck off that establishment, "and also holding the rank and receiving the pay and emoluments of a Colonel in the service of the United States, for which the Order of the 25th April, 1781, provided," &c. seem to insinuate that there was some incompatibility or impropriety in it. They appear to have misapprehended the nature of Gen. Hazen's half pay, which was not that of an officer in the British service, but of one who had quitted that service upon an annuity of half-pay, which had cost him a large sum of money, not less than eight hundred guineas, besides several years of actual service. This annuity Gen. Hazen was entitled to receive from the British government, without any additional duty or consideration, on his part, just as he would have been any annuity, from whatever source. It was the same to him, as any other property invested in the British funds or elsewhere, and subject to his entire disposal. The possession and enjoyment of it were as strictly his right, and as compatible with his holding the rank and receiving the pay and emoluments of an officer in the army of the United States, as the possession and enjoyment of any other property. And to set off against his claim for the loss of this annuity, the pay and emoluments he received for his revolutionary services, is to take his own property to pay him for those services. Nay more, it is to take for this purpose his property to an indefinite amount—his whole annuity for life, be his life longer or shorter. Why should Gen. Hazen, or his executor, be subjected to such distinguished injustice? No one more dearly earned his pay and emoluments, as an officer in the revolution, or made greater sacrifices to the American cause, than Gen. Hazen; and his executor, who served under him in the army, devoted to the same cause the best years of his life, and lost his health by the labors and hardships of the war, through the whole of which he faithfully served his country. Were he now to supplicate the bounty of government, would it be wholly unreasonable? And shall he be denied the claims of mere justice?

The committee of 1820, in thus again referring to the Order of April 25, 1781, establishing Gen. Hazen's specie debt of \$13,386 2-90, intimate that it provided for his pay and emoluments as Colonel in the army of the United States, as well as for the loss of his British half-pay, and appear to lay great stress on the circumstance, that this "large sum of money" was to be paid "in specie," "with interest thereon." But this very circumstance might have led them, upon the least reflection,

to conclude that this Order of Congress probably related to General Hazen's specie disbursements in Canada; and an inspection of the documents and evidence in the case would have satisfied the committee, that it could not possibly have any connection with his claim for the loss of his half-pay, which, as already observed, did not take place till many months after this Order was passed by Congress.

The committee proceed to state, but for what purpose they do not even intimate, "that Moses Hazen continued to receive the emoluments of subsistence, until the same were withheld by a Resolution of July 11, 1785."

By the "emoluments of subsistence," here spoken of, must be intended the provision, which was made for the Canadian officers and soldiers, generally, who were obliged to abandon their native country with the troops of the United States on their retreat from Canada. The State of New-York, through the intercession of Gen. Hazen, made them a liberal grant of land on Lake Champlain, bordering upon Canada, and Congress granted them the means of subsistence, till they could provide for themselves. The Resolution of July 11, 1785, discontinued this provision only to those Canadian officers, who were above the grade of captain.

This grant of the means of subsistence was no more than the United States were bound in justice and honor to do for those unfortunate men, who had entered into their service under promises of protection and support, and who, at the close of the war, through which they had faithfully served, receiving in payment only a *strip of paper*, of little or no value to them at the time, found themselves in a distressed situation, not daring to return to their homes in Canada, for fear of severe consequences for the part they had taken in the revolution. Gen. Hazen, who had been instrumental in drawing them into the service of the United States, never quitted them in their distress, but afforded them all the aid in his power, and for a time shared with them in this bounty of Congress—a bounty, which reflected honor upon the United States, but which, it could not have been imagined at that time, would ever be referred to, as having a connexion with Gen. Hazen's pecuniary claims.

The committee of 1820 finally refer to an "act of Congress, approved Jan. 23, 1805, allowing to the widow of General Hazen, for her support, the annual sum of two hundred dollars;" and to an "act of Congress of April 23, 1812, granting her nine hundred and sixty acres of land." The committee make no remark upon these acts of Congress, and it was not in their power to add any thing, which would show the slightest connexion between them and the claim under consideration. These grants were made to Mrs. Hazen, upon her private application, setting forth her own losses and sufferings in the revolutionary war. The simple facts of her case were these. At the commencement of the war, Mrs. Hazen, who was a native of Canada, was living with her husband in ease and affluence at St. John's; but she experienced a severe reverse in her situation by the war, losing her mansion house and buildings, with every thing valuable they contained. These buildings were first plundered by the American troops, and afterwards burnt by order of their commander, Gen. Sullivan, upon the retreat from that country. Mrs. Hazen followed the fortunes of her husband into the United States, and through the war, and devoted herself to him in his helpless condition, during the last seventeen years of his life; a part of which he passed in prison, where he died

deeply in debt, leaving his widow destitute of resources for her support. Under these circumstances, she appealed to Congress, who manifested their sense of justice in the grants they made for her relief. No compensation for the property of Mrs. Hazen, thus plundered and destroyed, was ever made to Gen. Hazen, either as a Canadian refugee, under the acts making provision for Canada and Nova-Scotia refugees, or otherwise.

The committee of 1820, in concluding their report, say "that the petitioner hath not assigned any satisfactory reason, to show why his claim, if it was just, hath been suffered to lie so long dormant, without being urged for settlement." "That having considered the case, with the facts and circumstances stated; and taking into view the high rank in the army of the United States, to which Moses Hazen was promoted, the committee are of opinion, that the United States, pursuant to the Resolution of Jan. 22, 1776, have indemnified fully for any loss of half-pay, that Moses Hazen may have sustained, in consequence of his entering into their service." "That there does not appear to be any provision made by Congress to extend that resolution to an executor."

The facts already stated, proved by the vouchers and documents in the case, and which it is unnecessary to repeat, show clearly, that there was no neglect on the part of Gen. Hazen to urge a settlement of this claim during his life; nor on the part of his executor, since his death, unless it was while the Treasury was in so embarrassed a state, as to forbid a hope of success, and to induce him, from this consideration, as well as from motives of patriotism, to discontinue his suit, till the government should be prepared to satisfy his claim. Surely, this act of forbearance will not now be imputed to him as a fault, and a fault too of such magnitude, as to forfeit his right to justice.

Sufficient also must have been said to show, that the "facts and circumstances" stated by the committee of 1820, and "the high rank in the army of the United States, to which Moses Hazen was promoted," were in no respect an indemnification for the loss of his annuity; that he never received any thing from the United States, which he would not have been equally entitled to receive, without the Resolution of Jan. 22, 1776, and that the promise contained in that resolution wholly remains to be fulfilled.

No provision of Congress was ever thought necessary to extend the benefit of Gen. Hazen's claim to his executor, as the committee would seem to intimate; all that is asked of Congress, is to make provision for its settlement, according to the legal effect of the contract, on which it is founded; such a provision, as the officers of the Treasury have always stated to be necessary, in order to its being adjusted and settled by them.

From the view, which has now been taken of this case, it appears, in the first place, that by the Resolution of Congress, engaging to indemnify Gen. Hazen for the loss of his half pay, sustained in consequence of his entering into their service, the United States became bound to pay him the same annuity, that the British government would have continued bound to pay him, had he remained in Canada, loyal to that government; and with the same punctuality, and of course subject to usual interest for delay of payment, after the annuity had become due.

Secondly, it appears, that the United States have failed to pay any part of this annuity, either as it became due or afterwards, or in any manner to fulfil their obligation to do it; and that the delay of payment is not im-

putable to Gen. Hazen or his executor, who have importuned the government for payment in every way in their power.

Thirdly, it consequently follows, that there is now due from the United States to Gen. Hazen's executor, in pursuance of said Resolution of Congress, the whole amount of his annuity, from Dec. 25, 1781, to his death, Feb. 4, 1803, with interest from the time that the several payments of the annuity became due.

Such is the claim now made, founded on the Resolution of Jan. 22, 1776. Founded, as it is, on a clear and explicit contract of the government with Gen. Hazen, which he, to his severe cost, fulfilled on his part, faithfully serving the United States throughout the revolutionary war, nothing but attention to the subject can be necessary, to induce the government to regard it, in its true light, and faithfully to fulfil the contract on their part.



The claim remaining to be considered, founded on the Order of Congress, so repeatedly alluded to, of April 25, 1781, was not before the committee of 1820, and of course was not noticed in their report. It is manifest, therefore, that the committee of 1826, in adopting that report, in the manner before mentioned, as embracing the "claim which the bill from the Senate (then referred to them) proposed to satisfy," were in an error, occasioned probably by their not having looked with attention into the papers of the case, not even the petitioner's memorial, in which the facts, connected with this part of his claim, were fully stated.

This Order of April 25, 1781, arose as follows: Gen. Hazen, being charged by Congress with important trusts in Canada, and the continental paper currency being of no use there, was under the necessity of making advances in specie, or giving his personal obligations, for the United States, in various exigencies of the public service, particularly in recruiting his regiment, and providing supplies for the army on its retreat from that country. His account of these disbursements, having been liquidated and settled by the competent authority, and a report on the subject made by the Board of Treasury, April 25, 1781, Congress confirmed the settlement and passed the following Order, for payment of the balance with interest;—viz:

"ORDERED, that the Board of Treasury place to the credit of Colonel Moses Hazen the sum of Thirteen Thousand, Three Hundred and Eighty-six Dollars and two ninetieths of a dollar specie, being the principal and interest of money due to him to the first of May 1781; and that the same bear an interest at the rate of six per cent. per annum from the first day of May next aforesaid until paid."

Nothing could be clearer than the obligation of the United States, pursuant to this Order, to pay this debt in *specie*, and also to pay *interest* upon it until paid. But the specie was not to be obtained, and Gen. Hazen's necessities obliged him, soon afterwards, to take \$7000 of the debt in "bills of the new emissions," at the rate of two dollars and a half for one in specie, their agreed value at the time, though when he received a part of them, they were current in the market at three for one. He was also under the necessity of accepting a certificate, issued by the Register of the Treasury in his favor, May 29, 1789, for \$6386, bearing even date with the Order of Congress establishing this debt, and

worth at the time from 2s6 to 3s on the pound, but which has been liquidated as equal to specie.

General Hazen made frequent and urgent applications for the balance due to him upon this Order of Congress; but it was not till Jan. 11, 1799, that the Auditor of the Treasury adjusted the payments that had been made on it, and ascertained the balance remaining due. Liquidating the bills of new emissions at $2\frac{1}{2}$ for one in specie, and the certificate for \$6386 the same as specie, the Auditor reported that the balance, then due to General Hazen, was \$8683,88; that is \$4200 principal, and \$4483,88 interest, calculated to Jan. 10, 1799.

Though, as is manifest, the auditor had liquidated these payments, altogether in favor of the United States, yet no part of this balance could then be obtained for Gen. Hazen, nor could the Comptroller of the Treasury be induced to certify upon the Auditor's report, alleging as his excuse for deferring it, the pressure of public business. He continued to defer it for nearly four years, during all which time, Gen. Hazen was in distress for want of the money, thus wrongfully withheld.

On the 30th of June, 1802, and when about retiring from office, the Comptroller turned his attention to the subject, being probably in too great haste to examine into the case, for he manifestly overlooked, or disregarded, the Order of April 25, 1781; and also misapplied a law of the United States, as well as "the usage of the Treasury," to justify his disallowance of the interest found by the Auditor, and specially engaged to be paid by that order.

"It is, says the Comptroller, difficult to do perfect justice in this case. On the one hand, Gen. Hazen ought not to be charged with the new emissions at par; on the other, it is not reasonable to subject the United States to such an accumulation of interest. If depreciation be allowed, Gen. Hazen will have no reason to complain, if interest on the balance should be refused. This appears to me to be more conformable to the principles of equity, and to the usage of the Treasury, than any other mode of adjustment, that can now be devised." And so he certifies upon the Auditor's report only for the sum of \$4200, rejecting the whole amount of interest found due, being \$4483,88; "in pursuance, as he adds, of the 5th Section of the Act of June 12, 1798;" thus confounding Gen. Hazen's specie debt with the class of unsettled accounts, to which that section refers, and overlooking another section of the act, which expressly provides for the payment of debts, like Gen. Hazen's, "credited on the books of the Treasury," with interest.

Gen. Hazen's original claim, as already stated, arose from his specie disbursements in Canada, and was liquidated and settled by the former government, and his vouchers were given up, when the Order of Congress was passed, establishing it as a *specie* debt, with *interest* till paid. Nothing remained to be liquidated, but the payments that had been made towards the discharge of this debt; and this the Auditor had done, in a manner most favorable to the United States; cancelling with the certificate of \$6386, an equal amount of the original debt, and liquidating the remaining sum of \$7000, received in bills of the new emissions, at their highest value, and calculating interest only on \$4200, the balance of principal found to have been due June 23, 1781, when the new emissions were received.

There could have been no difficulty, therefore, in doing full justice, at least to the United States, if the Comptroller had, at once, certified for

the whole balance, principal and interest, found to be due by the Auditor's report; or if, when he did certify upon the report, he had added to that balance the interest, which had accrued during the three or four years that he had, most unreasonably, withheld the money from Gen. Hazen. But if it was "difficult to do perfect justice in this case," it could not have been necessary to do such palpable injustice to Gen. Hazen, as the Comptroller manifestly has done, even upon his own principles. For he states, that "Gen. Hazen ought not to be charged with the new emissions at par." How he ought to be charged, he does not state; but he doubtless considered that the rate of 2 1-2 for one in specie, as agreed upon at the time, and noted in the books of the Treasury, was the highest rate, at which they ought to be charged; this being higher than the actual market value, when they were received. Liquidating them at this rate, the Auditor had reduced the balance of the principal of the debt to its lowest point, allowing Gen. Hazen no more than he would have been entitled to, June 23, 1781, when the new emissions were received, had it been then paid to him in specie; or than he would have been entitled to, at any time, had the Order of April 25, 1781, instead of expressly engaging that the debt should "bear an interest at six per cent. per annum until paid," had expressly provided otherwise. Yet the Comptroller, in consideration of allowing this balance of principal, to which Gen. Hazen was so strictly entitled, deprives him of a greater sum of interest due, to which he was equally entitled. Thus, in fulfilling the engagement of the United States, as to payment in *specie*, he wholly violates their engagement, not less explicit and binding, to pay the *interest*. It would have been difficult to imagine a pretence for such a proceeding, had not the Comptroller suggested one, in his remark, that "it is not reasonable to subject the United States to such an accumulation of interest"—and that a different course "appeared to him to be more conformable to the principles of equity."

Not *reasonable*—not *conformable to the principles of equity*—that the United States should fulfil their engagements! Admitting the Comptroller's remark to be correct, does it justify him in refusing to allow *any* interest in this case? But the remark can have no foundation in truth or justice. Why is it not as reasonable that the United States should be bound by their engagement to pay the interest of this debt, as by their engagement to pay the principal? And why not as equitable, that they should continue to pay interest, while they are bound by their contract to pay it, and while they choose to retain the principal, as that an individual should do so under similar circumstances? The United States had the use of Gen. Hazen's money, which he advanced in specie, or gave his personal obligations for, long before their promise to pay this interest, and they retained the use of it, against his urgent and repeated applications for payment. It was not his fault, therefore, that payment was so long delayed, and that such an accumulation of interest had become due.

The Resolution of June 7, 1785, before noticed, as cited by the committee of 1820, referring Gen. Hazen's "claims to the immediate payment of money," was passed upon his application for payment of this debt, at a time when he was pressed with suits upon his said personal obligations, and wanted the money to meet them. But he obtained nothing of the government by that application—nor by applications made afterwards, particularly in 1790, 1793 and 1803. It has been seen, at what time, the Auditor reported upon his claim, and how many years afterwards elapsed,

before the Comptroller could be induced to pass upon the report; and when he did attend to it, under what pretences he struck off, and disallowed the greater part of the balance found, upon the strictest principles, to be due to Gen. Hazen. It appears by the documents in the case, that the balance of this specie debt was withheld from Gen. Hazen, more than twenty years, against his will, and to his great injury, without payment of interest, or any indemnity whatever; and then the Comptroller, taking advantage of his own wrong, says it is not reasonable to allow such an *accumulation* of interest, and therefore allows *none at all!*

But whence did the Comptroller derive authority, at his own arbitrary pleasure, thus to trifle with the public faith, and dispense with a solemn obligation of the government? The Order of Congress of April 25, 1781, binds the United States as fully to the payment of *interest*—and *until* the principal sum is paid—as it does to the payment of the principal in *specie*. If the Comptroller could annul the Order in part, why not in the whole? If, by a dash of his pen, he could strike off the interest found to be due, why not the principal also? Both depend upon the same rules of right and justice. By virtue of this Order of Congress, Gen. Hazen had a vested right of property, as well in the interest as the principal of this debt, of which no power could divest him, certainly no power in any officer of the government.

It is manifest, therefore, that Gen. Hazen ought to have received all the interest, which the Auditor reported to be due to him; and that the Comptroller, either through inattention to this Order of Congress, or from mistaken views of the subject, committed a gross error, in striking off this amount of interest from the Auditor's report. Consequently, justice requires that the sum of \$4483,88, the amount so struck off, should be now paid, with interest from Jan. 11, 1799, when it was found to be due, as liquidated by the Auditor, and when it ought to have been paid to Gen. Hazen.

The principle of law and equity, which in common cases, requires that interest be allowed on the amount found due, after the same has been demanded and withheld, applies with additional force to the case of the claims we have now considered, as no indemnity, in the form of costs, can be expected for the years of anxiety and expense, that have been passed by the Memorialist in soliciting payment.

In respect to both these claims, the committee of the Senate in 1826, after a thorough examination of them, came to the same result, that the present enquiry has led to, concluding their report upon the subject, which was adopted by the Senate, in the following words. "The committee can see no ground, upon which the government of the United States can, consistently with good faith or justice, withhold from the representatives of Gen. Hazen compensation for the loss of half-pay, which he sustained by entering into their service, or the interest upon a liquidated and meritorious debt, expressly promised to be paid to him."

Such, it is believed, would be the opinion of all others whose province it is to decide upon these claims, if they had opportunity to examine the evidence in support of them. But it has ever been found difficult to obtain attention to the subject, in both Houses of Congress, at any one session; yet there are circumstances, connected with the consideration of these claims, which seem to entitle them to more than common attention.

Gen. Hazen, in respect to the revolutionary war, was, in one point of view, situated like the distinguished favorite officer, on whom the bounty of

the government has been so honorably bestowed; being, like him, under no civil obligations to embark in our cause. He might, with honor, have remained in Canada, in the enjoyment of ease and affluence. But he yielded to the solicitations of Congress, entered zealously into the service of the United States, raised a regiment of able bodied soldiers, and, by his own energy and perseverance, sustained it throughout the war, always respectable in point of numbers and efficiency, and this, without the aid of State or Town bounties or supplies; and with them he shared fully in the toils, perils, and hardships of the war. And to these were added other and severer trials and privations, of which the losses of property, before mentioned, formed but an inconsiderable part. A complication of misfortunes and sufferings, aggravated by the disappointment of all his hopes of justice from the government, followed him till his death.

These facts are not alluded to, as showing the justice of the particular claims in question, the meritorious nature of which needs no extrinsic influence, but as peculiarly entitling them to attention and impartial examination. In this view, it is proper also to recollect, that the present Memorialist, the executor, as well as relative and adopted heir, of Gen. Hazen, and who has made advances to the extent of his ability, upon the strength of these claims, entered the revolutionary army in his youth, served throughout the whole war, either as an officer or soldier, and near the close of it received an injury in the service, from the effects of which he has never recovered.

Such have been the suppliants in this case—suppliants, not for the bounty of the government, nor for compensation for losses and sacrifices, endured in common with many others in the cause of independence; but simply for justice, and that justice too, which consists in a performance of the clear and express contracts of the government—such a performance merely, as would be enforced by a Court of Law.



NOTE.

ON account of the infirm health of Major White, the task of preparing the preceding Statement of Facts was undertaken by one of his friends, who, though well acquainted with the subject, has labored under some disadvantages, being too distant from the Memorialist for a free communication with him, and not having entire copies of all the papers and documents relating to his public claim. Notwithstanding his utmost care to avoid mistakes, therefore, it is possible, that circumstantial errors may be discovered in this Statement; but he has the fullest confidence that it contains none, which can affect the substantial merits of the case.

The Statement, being much longer than was intended, is now printed, for the convenience of those who may be expected to read it.

Salem, (Mass.) Dec. 15, 1827.



